

**HOUSE OF REPRESENTATIVES***Friday, September 20, 1996*

The House met at 1.30 p.m.

**PRAYERS**[MR. SPEAKER *in the Chair*]**PAPERS LAID**

1. Report of the Auditor General on the accounts of the Diego Martin Regional Corporation for the year ended December 31, 1992. [*The Attorney General Hon. Ramesh Lawrence Maharaj*]
2. Report of the Auditor General on the accounts of the Diego Martin Regional Corporation for the year ended December 31, 1993. [*Hon. R. L. Maharaj*]

*Papers 1 and 2 to be referred to the Public Accounts Committee.*

3. Report of the Auditor General on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1990. [*Hon. R. L. Maharaj*]
4. Report of the Auditor General on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1991. [*Hon. R. L. Maharaj*]
5. Report of the Auditor General on the accounts of the Trinidad and Tobago Solid Waste Management Company Limited for the year ended December 31, 1992. [*Hon. R. L. Maharaj*]
6. Annual Report on the accounts of the Urban Development Corporation of Trinidad and Tobago Limited for the year ended December 31, 1995. [*Hon. R. L. Maharaj*]
7. Report of the Auditor General on the accounts of the Trinidad and Tobago Export Credit Insurance Company Limited for the year ended December 31, 1995. [*Hon. R. L. Maharaj*]

*Papers 3 to 7 to be referred to the Public Accounts (Enterprises) Committee.*

8. Sixth Report of the Elections and Boundaries Commission on the boundaries of the electoral districts in the electoral area of Tobago dated August 26, 1996. [*The Minister of Local Government (Hon. Dhanraj Singh)*]

9. Report of Cabinet-appointed Committee to Review the Constitutional and Legislative Arrangements for Tobago dated September 6, 1996. [*The Minister Extraordinaire and Minister of Tobago Affairs (Hon. A. N. R. Robinson)*]

**Hon. A. N. R. Robinson:** Mr. Speaker, I beg to move that this report be referred to a Joint Select Committee of Parliament established to consider the report and to submit its comments and/or recommendations thereunto Parliament; that the Joint Select Committee has power to send for persons, papers and records and receive and consider the comments of the public on the report; and that the Joint Select Committee be required to submit its report to Parliament no later than October 15, 1996.

*Assent indicated.*

*Paper 9 to be referred to a Joint Select Committee.*

**Mr. Patrick Manning** (*San Fernando East*): Mr. Speaker, I just wanted to raise the point of the length of time that is being given to consider the report. Today is September 20, 1996 and the recommendation from the Government is that the report come back to the Parliament by mid-October. In my respectful view, Mr. Speaker, having regard to other matters on the agenda at this time, I believe that that is not a sufficient time frame to properly consider a matter of this nature.

**Mr. Speaker:** Just for the sake of the record, I wish it to be noted that I allowed that comment to be made after the vote was taken, but I am just pointing out that strictly speaking, what the Member just did was not in fact part of the record. It opens up the floor for all sorts of things, but as I say, the ayes have it.

**DEFINITE URGENT MATTER**  
**(Suspected Typhoid Outbreak)**

**Mr. Hedwige Bereaux** (*La Brea*): Mr. Speaker, earlier today I sought your leave under Standing Order 12 to move the adjournment of the House in order to discuss a definite matter of urgent public importance, to wit, a suspected outbreak of typhoid fever at the El Dorado Youth Camp.

Mr. Speaker, the matter is definite—

**Mr. Speaker:** I indicated to the Member earlier today when he phoned me that I had received a written notice which was faxed to me, seeking leave, and that notwithstanding that on the face of it, I was not satisfied that it qualified, he would

have the right to raise it under the relevant item which we are doing, but I did indicate that it is necessary just to read what I had. One cannot go outside of what was on the notice that I got. So that I would ask him please to confine his remarks to that.

**1.40 p.m.**

**Mr. H. Breaux:** Mr. Speaker, are you saying that I am unable to show why it is definite?

**Mr. Speaker:** I am not saying anything of the sort. All I am saying is that your contribution at this stage has to be confined to what was sent to me in writing. You cannot go outside of it. I could act only on that which was indicated in writing.

**Mr. H. Breaux:** Mr. Speaker, the matter is definite because it concerns the outbreak—

**Mr. Speaker:** What the Member is now saying is not, in fact, included in the notice which he filed. I am not allowing this. I rule against it. I do not regard it as being definite, urgent and of public importance. Although I do not have to give reasons according to the Standing Orders, I would point out that he talked about a suspected outbreak. That, in itself, takes away the definite nature of it. I am ruling that I will not allow it today.

**Mr. H. Breaux:** Mr. Speaker, with due respect—

**Mr. Speaker:** No. If you are questioning my ruling, you could do that, but I have ruled on this issue and that is the end of it.

**Mr. H. Breaux:** Mr. Speaker—

**Mr. Speaker:** Would the Member just listen to what I am saying? You have raised a matter under Standing Order 12(1) and (2). I have ruled on it, and that is it. That is the end of the matter.

**Mr. H. Breaux:** Well, Mr. Speaker, your office has been guilty of misleading me.

**Mr. Speaker:** There are ways in which you could raise all of those issues. If you are talking about my office misleading you, you would have to be a little more particular, once you are not suggesting that I have misled you.

**Mr. H. Breaux:** I called the office today—Mr. Speaker, please—

**Mr. Speaker:** Mr. Speaker is simply on his legs and all I am saying is this. Are you suggesting that I misled you? Is the Member suggesting that I misled him in this matter?

**Mr. H. Bereaux:** Mr. Speaker, I have not been given the right to read it. Additionally, Mr. Speaker, I am not questioning your ruling, but I want to say this and I want to say it generally for Trinidad and Tobago. As an elected Member of this House, something is wrong in the country. The health of the nation is important and I must not be prevented from raising it.

**Mr. Speaker:** I have heard what the hon. Member has said and I would simply say that one must never get the wrong impression. Other Members of Parliament must never get the wrong impression; the people in the public gallery must not get the wrong impression; the press should not get the wrong impression. When you said, after I had ruled on this matter that my office was guilty of misleading you, I simply wanted to get quite clear that I had not done that. You have clarified it and you have said I have not done it—

**Mr. H. Bereaux:** I did not say anything of that sort. If you want me to say it I would say it now.

**Mr. Speaker:** Could we proceed to the next item on the agenda?

**VALIDATION OF THE SIXTH REPORT OF THE  
ELECTIONS AND BOUNDARIES COMMISSION (TOBAGO) BILL**

Bill to validate the Sixth Report of the Elections and Boundaries Commission on the boundaries of the electoral districts in the electoral area of Tobago [*The Minister of Local Government*]; read the first time.

**ARRANGEMENT OF BUSINESS**

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I move that the House proceed with "Bills Second Reading" Nos. 1 and 2.

*Agreed to.*

**CUSTOMS (AMDT.) BILL**

*Order for second reading read.*

**The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, I beg to move,

That a Bill to amend the Customs Act, Chap. 78:01, be now read a second time.

The Bill which is before this honourable House is in response to a study which has been conducted by our Customs and Excise Division to review the current procedures for evaluating the declared value of imported goods into Trinidad and Tobago. This study revealed a serious problem regarding under-valuation which has been plaguing our customs department. It also articulated specific weaknesses in existing procedures and laws and suggested ways of correcting those weaknesses.

The Customs and Excise Division is a major revenue earner for the Government. However, there is a school of thought that much of the revenue that should be collected by the Customs and Excise Division is being evaded by importers, basically through the avoidance of customs duty, the determination of which depends upon the appraised value of imported goods. The general assumption is that revenue is being lost due to false invoicing which understates the quantities, the values, or both, in respect of entries of goods which are subject to *ad valorem* duty.

Furthermore, whilst not admitting that there is evidence of collusion with the importer, the potential for bribery and corruption is immense in the Customs and Excise Division, as with any other tax collecting department. This is so because the amount of customs duty that may be saved by unscrupulous importers can be quite considerable.

It is in this regard that I am happy to report that the Customs and Excise Division has been working with the United States customs service over the last year and a half with a view to strengthening the institutional framework of our Customs and Excise Division. Mechanisms are presently being put in place to improve, among other things, the internal and external investigations; the management control systems; the computerization and advisory services of the Customs and Excise Division; added to which, a code of conduct is currently being developed which would demonstrate in very clear terms that the Customs and Excise Division is serious about dealing with under-valuation and other unlawful practices that will reduce the revenue of the state.

This Bill seeks to address specific weaknesses in the existing customs procedures by strengthening the legislative framework governing the administration of the Customs and Excise Division. The objective is to enhance the efficiency of the operations of that division whilst at the same time simplifying the language in the customs laws and eliminating certain ambiguities that presently exist in that legislation.

**1.50 p.m.**

The Bill before us covers the following: Firstly, it covers amendments relating to the facilitation of trade; secondly, amendments relating to the facilitation of passengers, including tourists, and the examination of their baggage at sea and airports; thirdly, there are amendments relating to the procedures concerning the valuation of goods; fourthly, amendments to the Sixth Schedule relating to the application of the valuation code on the general agreement of tariff and trade to the customs laws of Trinidad and Tobago; fifthly, it covers amendments to the penalty provisions of the Customs Act by increasing or imposing new penalties for the infringement of certain provisions of the Act—this is intended to serve as a deterrent to persons who engage in activities designed to defraud the revenue; sixthly, the repeal of certain provisions in the customs laws which have become unnecessary as a result of some of the proposed amendments. Finally, it covers amendments to eliminate ambiguities by restating the law in clearer terms.

Mr. Speaker, I will now seek to examine the Bill clause by clause. The first two clauses are self-explanatory and relate to the short title and interpretation of the expression "the Act" which refers to the Customs Act.

In clause 3 of the Bill the expression "document", as defined, is to be inserted in section 2 of the Act. The insertion of this expression is linked to section 228 of the Customs Act, which, as currently drafted, requires the importer, exporter or other persons concerned in the importation or exportation of goods, to produce, among other things, invoices, books of accounts and any other documents of whatever nature relating to the goods for the inspection of the officer of customs and excise requiring these documents. The expression "document" was not previously defined in the Act and the proposed amendments seek to specify the type of information which may be requested by the officer of the Customs and Excise Division.

Mr. Speaker, clause 4 will introduce a new section 4A by which section the Comptroller of Customs and Excise would be allowed to execute certain documents and agreements which are required to be entered into between the Comptroller of Customs and Excise and any other person. This provision is intended to facilitate the establishment of customs areas, private warehouses and transit sheds.

The proposed amendments to sections 20 and 23 of the Act, as outlined in clauses 5 and 7 of the Bill, relate to the valuation of imported goods and would

give the Comptroller the authority to demand any additional duty which may become payable based on new information received affecting the valuation of the goods. The Comptroller is also allowed to refund the duty overpaid based on a downward revision in value of the goods.

Mr. Speaker, clauses 8 and 9 of the Bill are intended to restate the law contained in sections 37 and 38 of the Act in clearer terms and provide a penalty of up to \$25,000 or three times the value of the goods in respect of an offence involving the sale, transfer or use of goods which were allowed to be entered at a lower rate of duty or free of duty.

It should be pointed out that the proposed amendment to section 37 in particular is intended to facilitate the importer where goods imported free of duty are, for instance, shipped to the importer in error. Under the existing law, that importer would be required to pay the full duties or to face the consequence of having his goods forfeited. In genuine cases it is proposed that these goods which have been shipped in error to an importer may be re-exported within two years of the date of importation of the goods with the prior written permission of the Minister. The penalty for violating this provision has been increased from \$4,000 to \$25,000.

The green line system has been a part of the customs and excise laws since 1978. It has, however, been the experience of many passengers that the present wording of the law governing the use of the green line creates more problems than it solves. The reason being that the law requires every passenger who takes up position in the green line to remain in that line until allowed to leave by the proper officer.

Clause 10 of the Bill seeks to amend section 65 of the Act so as to allow passengers who have no uncustomed or prohibitive goods, or who have no dutiable goods in excess of the approved allowances, to proceed along the green line and leave the customs area. Passengers may nonetheless be requested to stop for the purpose of being searched by an officer on duty at the green line or any other part of the customs area. To ensure that this facility is not abused, a passenger who is in breach of the green line will now be liable to a fine of up to \$50,000.

Mr. Speaker, I note that the words "liable to a fine of \$50,000" do not mean that any passenger who is in breach of the green line provisions will have to pay \$50,000 upon conviction. It simply means—and I am so advised—that the

passenger is potentially open to the payment of that fine upon conviction and the magistrate has a discretion to impose a fine of any amount up to \$50,000. A passenger leaving the green line area with dutiable goods valued at \$100, for example, would hardly be fined \$50,000 by a magistrate. Whereas a passenger leaving the green line area with dutiable goods valued at \$100,000 may well be fined the maximum amount of \$50,000.

It is expected that this amendment should bring an end to the anomaly whereby the green line is sometimes longer than the red line resulting in some passengers preferring to be subjected to a customs examination in the red line so as to leave the airport faster.

Mr. Speaker, by clause 11 of the Bill, the amendment to section 87 of the Act seeks to more clearly set out the procedure for entering goods without accompanying documentation on what is referred to as a Bill of Sight. However, in order to avoid the abuse which may occur in relation to importers who may seek to claim common market rates of duty, section 87(3) restates the point that the provisions of that section do not apply to such importers.

Importers seeking common market rates of duty would still be required to provide satisfactory documentation to substantiate their claims. This provision is necessary not only to protect our revenue but also to protect our Caricom manufacturing neighbours from unscrupulous and fraudulent importers.

The provisions contained in the new sections 87A and 87B seek to set out a more simplified arrangement for an importer to receive his goods even when he is not in possession of all his documents. These measures are intended to ensure that a person's business will not be unduly affected by the customs retaining his goods until such time as he is able to provide the necessary documentation in support of the value of the goods. Under the existing law, the Comptroller of Customs and Excise will not allow delivery of goods where the importer fails to provide satisfactory evidence in support of the value of those goods.

Goods may now be provisionally entered based on a provisional assessment and the payment of a deposit. However, a restriction is placed on the ability of the importer to appeal to the Tax Appeal Board in respect of a dispute arising in respect of the imported goods until such time as a final assessment is made and the Comptroller notifies the importer of such final assessment.



Furthermore, the time period within which disputes are to be determined by the Customs and Excise Division has been considerably shortened. Even where the Comptroller knows, or has reason to believe that documents provided are false, the Comptroller now has, at the very latest, three months from the date of provisional entry of the goods, to bring court proceedings against the importer or else he must accept the importer's assessment and refund any excess paid.

As a result of these amendments made in sections 87, 87A and 87B of the Act, it is proposed by clauses 12 and 14 that sections 88, 89, 91, 92 and 93 of the Act be repealed because they will no longer be necessary. These latter sections describe the existing procedure for entry of goods in the absence of documentation and have proven to be difficult to administer.

It is also proposed by clause 13 of the Bill that section 90 of the Act would be repealed and replaced by a new section 90 which will now authorize the Comptroller to retain samples of goods for the purposes of sections 87, 87A and 87B whenever a provisional entry of goods is made and until a final entry of the goods has been approved. The new section 90 will also require the Comptroller to make and keep any inventory of the samples retained.

**2.00 p.m.**

Mr. Speaker, under the existing section 205 of the Act, an officer of the Customs and Excise Division, on the strength of a writ of assistance obtained from the High Court, may at any time enter into and search any house, shop, cellar, warehouse, room or any other place for the purpose of seizing uncustomed or prohibited goods or any books or documents relating to these goods. Similarly, under the existing section 206, an officer may obtain a special warrant from a magistrate to enter and search a house or other place in Trinidad and Tobago where he has reasonable cause to suspect that any uncustomed or prohibited goods, or any books or documents relating to those goods are kept in that house or other place.

There has been much uncertainty about the meaning of the words "any other place" to the point where there has been some reluctance by officers of the Customs and Excise Division to obtain search warrants or to use the writ of assistance. In order to remove the doubt that exists, it is proposed by clauses 15 and 16 to insert the words "including any place where documents relating to uncustomed or prohibited goods are reasonably expected to be found".

Clause 17 of the Bill proposes to amend section 212 of the Act so that the offence of counterfeiting and falsifying documents required to be submitted to the Comptroller of Customs and Excise will apply not only to the customs laws, but also under any other written law. The proposed amendments are intended to broaden the areas which will be considered an offence in respect of the submission of documents by importers.

Clause 18. Amendments to section 228 of the Act have been proposed to assist the Customs and Excise Division in its administration insofar as it is possible to obtain accurate information relating to importation or exportation of goods. The existing provision requires the importer, exporter or any person concerned with the importation or exportation of any goods to produce for the inspection of a proper officer, the invoices or books of accounts and any other documents relating to those goods where a request has been made for the production of such documents within three years of the date of entry or exportation of the goods.

Mr. Speaker, the words “any person concerned in the importation or exportation of any goods” are not defined in the existing legislation thereby leaving some doubt as to the persons being referred to. It is therefore proposed in the amendments to section 228 to reword and restructure the provisions for visual clarity as well as to define the words “a person having an interest in the importation or exportation” to include a financial institution which has advanced funds for the payment of the goods and an insurance company which has issued a policy of insurance covering those goods.

Financial institutions and insurance companies are often in possession of documentation relating to the importation and exportation of goods. The information which these institutions and companies have access to would normally reflect the true terms and conditions of the import or export transactions. This is particularly the case with respect to information forwarded to insurance companies where the principle of *uberrima fides* (of the utmost good faith) is observed. According to this principle, an insurance company can avoid a contract in respect of which false or incorrect information concerning the insured product is wilfully supplied. Armed with information from financial institutions and insurance companies, the Customs and Excise Division will be better able to determine the correctness of the documents submitted to it by importers and exporters, while at the same time, being able to gather evidence to prove that the offence for providing false documentation has been committed.

By clause 19 of the Bill amendments are being proposed to the Sixth Schedule of the Act which deals with the manner in which imported goods are valued. It is proposed to include definitions of buying agent and seller to allow for greater precision in identifying all of the parties involved in the buying and selling of imported goods. The doubts which may arise in ascertaining the parties to transactions involving the importation of goods are expected to be removed by these amendments.

Additionally, it is proposed that paragraph 3(2)(a) of the Sixth Schedule be amended to fill an omission which has created problems in properly applying the provisions of the Sixth Schedule dealing with the determination of the transaction value of goods sold for export to Trinidad and Tobago. To explain further, the existing paragraph 3(2)(a) of the existing schedule, sets out guidelines for determining whether the transaction value of goods sold between related parties should be accepted by the Comptroller of Customs and Excise. Where, for instance, the importer can show that the transaction value closely approximates the value of sales made between unrelated parties in respect of identical or similar goods, the Comptroller may accept the transaction value quoted by the importer. Where, however, the Comptroller has grounds to believe the relationship between the parties has influenced the transaction value of the goods, the transaction value may be adjusted by the Comptroller by substituting that value with the value of identical or similar goods sold to unrelated parties.

What the amendment before this House is seeking to do is to make provision for the case whereupon a discovery made under the new section 23 (2) of the Act, the value of the goods is adjusted up or down. In such a case the transaction value adjusted pursuant to paragraph 3(2)(a) of the Sixth Schedule will also have to be adjusted accordingly. We have sought to clean up the Customs Act by deleting paragraphs 3(8) of the Sixth Schedule which repeats what is already stated in paragraph 3(1) of that schedule.

Furthermore, it is proposed to amend paragraph 8(1)(g) of the Sixth Schedule to clarify the point that the cost of transportation of imported goods up to the port or place of exportation and not the port or place of importation, should be included in determining the customs value of imported goods. It should be noted that article 8(2) of the GATT valuation code permits the country to include or exclude from the cost of transportation of goods, the loading, unloading and handling charges at the port of importation. We have opted to exclude such loading, unloading and handling charges at the port of importation so that, even

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actually incurred by the importer of the goods, these charges will not be added to the price of the goods for customs valuation purposes. What will be added to the price for customs valuation purposes will only be those charges incurred up to the port or place of exportation.

This measure should have the effect of reducing the costs to be included in the price of goods and ultimately the final duty payable by importers.

Finally, clause 20 of the Bill is proposed to delete the words “liable to ad valorem duty” in forms C75 and C76 as prescribed in Schedule 1 of the Customs Regulations. Because of the inclusion of these words, these forms which are declarations of the value of goods, are not completed by importers in cases where goods are entered free of duty.

Because of this practice, the Customs and Excise Division has no access to information regarding the true value of goods which are entered free of duty and is therefore not in possession of the requisite information to determine the falsehood of declarations made in respect of these goods.

By deleting the words “liable to ad valorem duty” the Customs and Excise Division will now be able to prosecute importers who have brought in goods in excess of \$1,000 for false declarations where the values placed on those forms have been incorrect.

Mr. Speaker, a great deal of progress has been made in strengthening the institutional framework of the Customs and Excise Division. It is expected that with the proposed changes to the legislative framework, there would be an increased revenue flow for the Government, improved cargo processing and a more efficient Customs and Excise Division.

Mr. Speaker, I beg to move.

*Question proposed.*

**2.10 p.m.**

**Mr. Hedwige Bereaux** (*La Brea*): Mr. Speaker, I rise to make a short intervention on the Customs (Amdt.) Bill. I look at the Preamble of the Bill which seeks mainly to make certain amendments to the Customs Act for the purpose of expediting customs procedures with respect to international trade, tourism and the valuation of goods and some other consequential amendments.

The hon. Minister of Finance went into some detail as to the various amendments which are to be made. As indicated in the Preamble, quite a number of them were intended to facilitate international trade. Like most other things, when we look at the peripheral points on the surface, sometimes we miss the main point. International trade cannot take place in any country, or no country can hope to access international trade if there are questions with respect to the health of that country.

I believe that we need to look at this Customs (Amdt.) Bill from the standpoint of the health situation in Trinidad and Tobago. Certain amendments must focus on communicable diseases such as typhoid.

**Mr. Speaker:** I simply say to the hon. Member that if he honestly thinks that he is being relevant to the Bill and that is just not a way of cleverly trying to circumvent a ruling of the Chair, he is free to proceed until such time as I think he is irrelevant.

**Mr. H. Bereaux:** Mr. Speaker, thank you for your intervention and the guidelines set.

I look to the Bill for some other guidance. When the hon. Minister spoke in respect of the fines to be paid for breach of the green line, he indicated that a certain amount of latitude must be given to the magistrate. He said it does not mean that if one comes in and seeks to avoid customs with goods valued at \$100, one would be charged \$50,000. No one expects a magistrate to impose a penalty of \$50,000 if the dutiable item which the passenger sought to bring into the country is valued at \$100. If the magistrate were so to do, the person convicted would have a court of appeal to go to. I am constrained notwithstanding the position taken in respect of the dollars and cents, but because I know there is a court of appeal to go to.

I am likely to give my support to this particular provision. As in every court of appeal, there is a final court of appeal. In any event, rights which are given come with responsibilities. Any person who breaches that responsibility loses the right to exercise control. Nothing in this world comes free. That is a jurisprudential position.

Mr. Speaker, to answer your question, I am dealing properly with the question of international trade, and in particular, tourism. The way in which certain diseases are spread and the danger which is recognized in respect of those diseases, has to do—statements are made by the US foreign department advising its nationals not

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to travel to some countries and to be careful when travelling to other countries. If we want to deal properly and to be successful with international trade, we must deal with health.

If there is a likelihood that an important problem which has to do with the health of the nation is surfacing in the country, we have to deal with it within the ambit of any bill which we look at in this honourable House. It is here. The hon. Minister of Trade and Industry and Minister of Consumer Affairs is on record as saying that a number of persons fail to come to this region because of the foods which are served in our establishments. *[Interruption]* He did. Maybe those are not his exact words, but I am certain they form the gist of what he said.

Typhoid is one of the diseases which is spread by eating food when it is served by persons who are typhoid carriers. We have to be more concerned. In this country, just around the time when our tourism thrust came about in the 1960s, we thought from a medical standpoint that we had totally eradicated and outlawed typhoid. Therefore, any problem which faces the nation in respect of its health must be dealt with under the Customs Act.

*[Interruption]* I will ignore Totoram.

I believe that with respect to clauses 15 and 16 which would amend sections 205 and 206 respectively so as to avoid any doubts which may arise concerning the powers of the Comptroller to enter any place in Trinidad and Tobago, where documents relating to goods are reasonably expected to be found, there should also be a further amendment to those sections to provide that, not only the Comptroller, but also a medical officer would be entitled to enter any premises where it is believed that someone suffering from a serious communicable disease is sequestered.

**2.20 p.m.**

With these few words, I emphasize that the health of the nation is as important, or even more important than trade. Without a good and healthy basis, trade and tourism and every other thing cannot function. Accordingly, I believe that I have done a service to this country today by pointing out that elected Members of Parliament cannot be muzzled.

**The Minister of Trade and Industry and Minister of Consumer Affairs (Hon. Mervyn Assam):** Mr. Speaker, I support the Bill introduced by my colleague, to amend the Customs Act, Chap. 78:01. I join this debate from a different angle to the hon. Minister of Finance, who obviously must be very

concerned about revenue collection devices and the efficacy of these methods as they relate to revenue collection because the Customs and Excise Division is indeed one of the most important departments in government for raising much needed revenue.

I would like to look at this Bill from some other perspectives which relate specifically to my portfolio as Minister of Trade and Industry, and also my other portfolio as Minister of Consumer Affairs. Even though I am not responsible for tourism, I would like to look at it briefly from another perspective, the standpoint of tourism.

Although my distinguished Friend from La Brea made his very short intervention and attempted to speak on the matter of health, it seems to me, although I am not a medical doctor, that he attributed the spread of typhoid to the wrong cause. One gets the impression that a person can get typhoid from eating goods or merchandise imported into the country. My understanding is that typhoid is spread by different methods. He seemed to have taken the opportunity to misquote me when I was asked by the tourism association of this country to deliver an address when they assembled at the Hilton Hotel, in respect of the serving of food at hotels and the kinds of problems that could arise from foods that could create certain digestive problems.

On that occasion, I said that if a reputable hotel was found to be guilty of serving food which caused harm in any way to a visitor, it could create a problem for tourism, for the country and, by extension, the clientele of that hotel. I paraphrased what I said on that occasion, but that is essentially what I said, quite different from what the Member for La Brea was attempting to suggest.

Mr. Speaker, the Member for La Brea is right. International trade, as I have often said, is extremely important to any country because it is the lifeblood of a country. In fact, I have said on a previous occasion that international trade is to a country what oxygenated blood is to the body. If a person does not have it, he will simply die, it is so important. Therefore, one of the institutions that we use to ensure an efficient flow of international trade, whether through imports or exports, is our Customs and Excise Division. That is why it is so important for any government—and this Government has taken the lead—to ensure that the administration of the Customs and Excise Division and the laws governing the administration of this division are modernized and updated to keep up with the trends in international trade.

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It is no secret, Sir, that Trinidad and Tobago has joined the rest of the international community in pursuing a policy and a regime of liberalization and free trade as part of the globalization process and, consequently, everything we do in respect of international trade and the institutions impacting on international trade should be of world standard.

This administration and previous administrations embarked on the modernization and improvement of the Customs and Excise Division with the introduction—*[Interruption]* The Member does not understand that this is a balanced speaker—

**Mr. Valley:** The Minister should read the notes where he said that his Government has taken the lead in rationalizing customs.

**Hon. M. Assam:** The Member is too impatient! As I said, this administration and former administrations embarked on the modernization of the Customs and Excise Division and introduced measures and mechanisms to deal with the increase of international trade and to position Trinidad and Tobago among modern states of the world. We have had the introduction of the ASYCUDA Programme. We have had the introduction of the Single Administration Document (SAD). We have had the establishment of container examination stations: one at the port of Point Lisas and one will be completed very shortly at the port of Port of Spain. All of these measures are intended to improve the functioning of the Customs and Excise Division with a view to ensuring that international trade is facilitated without impediment, barrier and undue hassle to both the importing and exporting public.

This Bill goes a little further because it deals with the green line system at Piarco International Airport. Although this system has been in place for some time, it has never worked efficiently, simply because the examination procedures that were hitherto practised by customs officers at the green line were very similar to those practised by customs officers at the red line. Therefore, it meant no substantial improvement in the flow of people and goods coming into the country, particularly when there were two or three large aircraft landing at the same time with passengers well in excess of 500 or 600 moving through the customs hall.

It created enormous congestion, frustration and embarrassment to the Government and people of Trinidad and Tobago when those situations arose. It had an impact, Mr. Speaker, and this is why I said that I would speak very briefly on tourism.



**2.30 p.m.**

The tourist who comes into Trinidad and Tobago and sometimes overnights to go to another destination—perhaps Tobago or Grenada—after a transatlantic flight of eight, nine or ten hours depending on what part of Europe; or a North American flight from Toronto or New York of perhaps, another four, five or six hours, sometimes has to suffer the inconvenience of having to line up in the customs hall because of the kind of congestion I attempted to describe earlier. In many cases they have absolutely no more than their personal effects or perhaps some gear; tennis rackets or jogging shoes, things that are permissible under the customs laws that do not attract duties of any kind.

Therefore, this green line system that we are attempting to put in place—notwithstanding the fact that the fine has been increased quite severely from \$500.00 to \$50,000.00 for a violation—will substantially improve the climate at Piarco International Airport and the international image of Trinidad and Tobago, particularly, as it relates to incoming tourists. The tourists I am talking about are not only the foreign tourists, but the returning residents who live abroad, and the Trinidadian and Tobagonian who lives in Trinidad, who are coming back to their homeland, quite legitimately bringing what they have, and being inconvenienced.

I remember a few years ago—I am not knocking the Customs and Excise Division—I came from a very long trip from Phoenix, Arizona and the only thing I had to declare was a clock operated by a battery. The officer asked me what I had to declare and I said nothing but a clock operated by a battery. He asked for the bill and I showed it to him. He saw I paid \$17.99 for the clock. An argument ensued. Although I had the bill he said: “This could not be the correct value. This is not a battery clock; this is an electric clock.”

Therefore, I believe that this green line system will go a long way to eliminate frustration, embarrassment and all the things associated with the long line-ups that have characterized the Customs and Excise’s functions at the baggage hall at Piarco International Airport. The fine has been increased substantially, and rightly so, for any would-be perpetrator who feels that he or she could get through the green line and never get caught, because there is going to be a statistical check from time to time, whereby if one is caught, one will pay a severe penalty of \$50,000 and I suspect one’s goods could be confiscated as a consequence.

With respect to my other hat, Mr. Speaker, in terms of the Ministry of Consumer Affairs, it is no secret that I have been waging a crusade throughout the

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length and breadth of this country in terms of attempting to persuade the people who supply goods and services to maintain prices at affordable levels, particularly to the disadvantaged economic groups of the society. I have been holding meetings with all the important players in all the various sectors; whether the public sector or the private sector; whether it is a supplier of good or service; attempting to persuade them to be even-handed in the application of price increases.

Therefore, as I understand the Bill, this system will help to, in some cases, reduce the cost of importing goods into the country simply because of the efficiency levels that will be generated through the improved system. I want to congratulate the hon. Minister of Finance for facilitating this kind of international trade, whereby imports of goods into the country will be brought in much more easily, much more quickly and expeditiously, thereby reducing costs to the importer and eventually the price that is passed to the consuming public. I think this is an excellent way to lead and that is what I was speaking about when I spoke about taking the leadership role, where the Member for Diego Martin Central, in his impatience, would not understand where I was coming from.

In terms of my portfolio as Minister of Trade and Industry, Trinidad and Tobago has been positioning itself on the world stage. This was started many years ago by the NAR administration; it was continued by the PNM administration and the UNC/NAR administration continues to do so with great speed and fervour. *[Interruption]* Why does the Member for San Fernando East not bother about the Member for Diego Martin West, rather than bother the Member for St. Joseph, Mr. Speaker? He has enough troubles on his hands. *[Laughter]*

We have been attempting to position ourselves on the world stage in order to ensure that Trinidad and Tobago's trading patterns; Trinidad and Tobago's international trade and Trinidad and Tobago's economic position will be guaranteed into the future. Therefore, we have been engaged in bilateral treaty arrangements; we have been pursuing the free trade area of the Americas process; we have positioned ourselves for accession to Nafta; we are taking advantage of our guaranteed markets in Europe through the Lomé Convention, CARIBCAN, CBI, attempting to get improvements with the CBI and CARIBCAN through Nafta parity in the event we are not successful in getting into Nafta.

We are positioning ourselves in terms of Latin America, Venezuela, Colombia, Mexico, Bolivia and Costa Rica. Quite recently, the hon. Minister of Foreign Affairs who attended a meeting in Cochabamba in Bolivia went to Argentina to

discuss further considerations by that country with respect to Trinidad and Tobago getting a window into that great trading bloc that is called MERCOSUR.

Mr. Speaker, you would see the importance of this Bill in the context of all these initiatives undertaken by the Government of Trinidad and Tobago to ensure that Trinidad and Tobago's trading position and its international trading position—to be more exact—is well positioned. Therefore, we must have a Customs and Excise Division that is efficient, responsive and responsible that would redound to the benefit of not only the business community and the consumer, but to the country as a whole.

Therefore, the valuation of goods becomes very important in this context, and giving the Comptroller of Customs and Excise the power to value goods brought into the country, even after they have been assessed, where new information has been received, is a very important power to give to the Comptroller of Customs and Excise because things are happening so quickly; information is sometimes not as readily available as the rate and pace of change, that one must give that residual power to the Comptroller of Customs and Excise who must, at any time, enter into premises and be able to re-value the goods that have been already valued even after a lapse of time. I think that is very important, not only from the standpoint of the revenue, but in terms of keeping people, who are importing goods into the country, on their toes; for them to understand that there is also a possibility of a post-audit of their importation even after the shipment has been cleared.

The Member for La Brea, although he was irrelevant in bringing into the Bill the question of the spread of typhoid and communicable diseases, must also understand that the Customs and Excise Division is guided by sanitary and phytosanitary rules and regulations. Therefore, to bring in any kind of article that could, in fact, create a problem for the health of the nation, one is required to have the necessary legal documentation that is approved and certified from the exporting country, that one is in conformity with the sanitary and phytosanitary rules and regulations of importing goods into Trinidad and Tobago.

I do not believe that the Member for La Brea should have any worry with respect to that because the Ministry of Health and the Ministry of Agriculture, Land and Marine Resources give enormous support and reinforce the work of the Customs and Excise Division in the discharge of this particular responsibility.

**2.40 p.m**

Mr. Speaker, the Customs and Excise Division must not only be seen as a revenue collecting department, it must be seen as a service-oriented department notwithstanding the fact that it must collect the revenue and, therefore, it is in this context that this Bill would be able to give it the necessary powers to expedite matters even if there is going to be some kind of reconsideration afterwards, so that service to the importing or exporting public could be improved and brought in line with world standards.

Too often in my portfolio as Minister of Trade and Industry, I get complaints from the business community stating the kinds of delays and frustrations experienced in either exporting or importing goods out of Trinidad or into Trinidad from time to time. In fact, I have made representations to the hon. Minister of Finance who is responsible for the Customs and Excise Division, to see how we can improve the logistics on the port of Port of Spain in particular with respect to this set of complaints.

In addition to being a service-oriented organization, the Customs and Excise Division must also be a division that is holding up the quality standards of the country. Another organization that reports to me, the Bureau of Standards, is working in close collaboration with the Customs and Excise Division to ensure that goods imported into Trinidad and Tobago maintain and conform to certain standards as enunciated from time to time and promulgated in the various standards by the Bureau of Standards. Therefore, the Customs and Excise Division is in fact, a multi-functioning organization charged with the responsibility of collecting revenue, providing service, protecting the health of the nation, protecting the quality of imports and also at the same time providing the kind of service that would facilitate the expansion and growth of international trade both through imports into and exports out of Trinidad and Tobago.

I hope that with the completion of the container examination station at the port of Port of Spain, that this would add another dimension to the efficiency and the reliability of the Customs and Excise Division's functions and they would become as efficient as the port at Point Lisas which has been so recognized.

One of the important things that we must understand is if Trinidad and Tobago is to become a serious exporter, particularly in perishable goods such as aquarium fish; edible fish; horticulture; floriculture; fruits; vegetables; ground provisions and

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what have you, it is extremely important that the Customs and Excise Division whether at seaport or airport pay close attention to these exporters who must export their goods in a timely fashion and in the best condition possible so that when they reach their destination in the receiving countries, Trinidad and Tobago will develop the image of exporting the highest quality goods in the areas I have just enumerated. *[Interruption]*

Mr. Speaker, with these few remarks, I would like to commend this Bill to amend the Customs Act, Chap. 78:01, to this House in the hope that it will be accepted because of its progressive nature and that it would redound to the benefit of importers, exporters, consumers and in the final analysis, to the joint consolidated fund of this country that will enable this Government to proceed with the quality growth and development that has been entrusted to us and that we have promised the people of this country.

Thank you very much.

**Mr. Colm Imbert** (*Diego Martin East*): Mr. Speaker, once again in this Parliament, we have been treated to a contribution by the Minister of Finance without any philosophy, without any explanation of the rationale behind the measures, and without any recognition of the work that was done by the previous administration.

The Bill before the House was in fact compiled by the previous Minister of Finance, Mr. Wendell Mottley, and it was ready for tabling in this Parliament towards the end of 1995. It is a shame that the present Minister has been so slow that he has taken 10 months to come to this Parliament with a piece of legislation where, from my recollection, I cannot even see a new full stop; a semi colon; or a paragraph.

The fact is that the reform of customs was an initiative of the PNM's administration in the 1991—1995 period. There was the construction of a container stripping station at Point Lisas which at least was completed before the election so that the party animal from Couva North could not claim credit for that. We saw the bizarre event in the local government election of the fast patrol boats donated to Trinidad and Tobago by the United States before the general election for which the party animal decided to take credit. *[Interruption]* Mr. Speaker, the philosophical underpinning of this legislation arises from the general reduction in tariffs and duties as a result of the GATT Agreement, the Yugoslav Round and as a result of

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general reduction in duties that have taken place throughout the world over the last five to ten years.

**2.50 p.m.**

Governments, Mr. Speaker, recognizing the potential fallout in revenue from the reduction in duties, have had to take measures to increase compliance. This is why, even though there has been a general reduction of duties over the last five years, collections have improved because of increased compliance, because of reform of the Customs Division, because of higher productivity from officers of the Customs Division. Improved surveillance—the fast patrol boats came with a new improved radar, all brought in by the previous PNM administration; and the measures we are debating today, as I said, were prepared by the previous Minister of Finance in 1995 and it is unfortunate that the Minister would come, supported by his loquacious colleague from St. Joseph, and talk about the progress being made by the present administration, initiatives undertaken by the Government of Trinidad and Tobago to improve trade. What a joke! All this Government is doing is implementing the work of the previous administration, and not at the pace that it should have been implemented.

**Mr. Assam:** Is that why you are against your Leader?

**Mr. C. Imbert:** A lot of these measures, Mr. Speaker, were due for implementation months ago, but because the Members on the other side have a greater interest in extra-curricula activities, they cannot deal with important matters. [*Desk thumping*] The Minister of Finance has a lot of interest in customs and importation of items and so forth. [*Interruption*] We see now, in this Bill a definition in clause 19 of a “buying agent”: “a person who acts for the account of a buyer of goods,” [*Interruption*] and we have in clause 18 “a person having an interest in the importation or exportation of such goods”.

The measures in the legislation are required for two reasons: one, to give the customs the tools to equip it with ability to deal with fraudulent importers and persons who make false claims; and I sincerely hope that the legislation would be applied fairly and across the board; that all persons who are guilty of offences will be dealt with, [*Desk thumping*] including certain persons who are business associates of the Minister of Finance and who are now in the business of the importation of motor cars, I understand.

**Mr. Assam:** What about your business associates?

**Mr. C. Imbert:** The police are soon to get 100 Cherokee jeeps, coming from the agency of the business associates of the Minister of Finance. Without tender. Instructed by somebody. How strange! Before the election of 1995, the police used to drive Land Rovers, Isuzu jeeps, and so forth. Funny. Now they are going to be importing Cherokee jeeps through the agency of the investors in the UNC Government—"The Boys", as they are called. [*Desk thumping*]

**Mr. Hinds:** They believe the people of this country are blind and foolish!

**Mr. C. Imbert:** The platinum club. "The Boys" who invested \$3 million in the UNC election are now reaping the benefits, one hundredfold.

**Mr. Hinds:** Oh yes!

**Mr. Assam:** Your business associates reap a thousandfold!

**Mr. C. Imbert:** Now, let me come to the Minister himself. [*Interruption*] It has now become commonplace to hear about what "The Boys" are doing—Brian, Ish, Steve and the other boy. When one hears of the acquisition of the Huggins building by "The Boys"—Ish, Steve, BRI Holdings and whoever—and when one realizes that the Customs and Excise Division falls under the Minister of Finance, and that the Customs and Excise Division is going to be housed in the building acquired by "The Boys"—

**Mr. Hinds:** It is frightening!

**Mr. C. Imbert:** —you see what I mean, Mr. Speaker, about the repayment of that \$3 million investment.

**Mr. Valley:** "The Boys" at play.

**Mr. C. Imbert:** They would probably make about \$300 million—

**Mr. Manning:** On that alone!

**Mr. C. Imbert:** —before this Government goes out of office! A one hundredfold return on an investment of \$3 million. [*Interruption*] I find it very curious that on the recommendation of the Minister of Finance a building is to be rented for the Customs and Excise Division, a building owned by business associates of the Minister of Finance. Very, very interesting.

**Sen. Kuei-Tung:** Mr. Speaker, I wonder if the Minister would give way. I believe it is unfair for the Member for Diego Martin East to come here and make these kinds of allegations without any evidence. I am convinced that the Minister does not have such evidence.

**Mr. C. Imbert:** I am not a Minister.

**Sen. Kuei Tung:** The Member does not have such evidence; and if he has that evidence, I would be glad if he could produce it, so that I could clearly take whatever steps are necessary; but for him to sit there and allege that things are happening with people who are not here to defend themselves—

**Mr. Manning:** It is not that you are unknown to us. We know what you are doing.

**Mr. Assam:** You know him and you appointed him?

**Mr. Valley:** We now know him.

**Mr. Sudama:** You now know “Robbie” too; and Imbert. You now know Imbert too?

**Hon. Member:** You know me?

**Mr. Manning:** Fear thou not.

**Mr. Speaker:** Hon. Members, it is quite clear that the standard of this debate is degenerating. I would simply ask that it be borne in mind that in making any allegations against people who are not in this House and who do not have an opportunity of responding, we should be careful. We do have the right to free speech in here, yes; we do. But we must bear in mind that this must not be used wantonly against people who do not have an opportunity of defending themselves. I simply ask that one takes note of the intervention that has been made by the Minister.

**Mr. C. Imbert:** I thank you, Mr. Speaker, and on those matters, we shall deal with them as they arise. If I see the police driving one Cherokee jeep, Chrysler, we shall deal with that as it arises.

**Mr. Valley:** That would be sufficient evidence.

**Mr. C. Imbert:** One Cherokee jeep.

**Mr. Panday:** Corruption?

**Mr. C. Imbert:** Mr. Speaker, as I said, the Bill before the House is simply the work of the last Minister of Finance, the last PNM government, and the present Minister has been very tardy in bringing this matter before the House.

One of the more salient elements of this legislation is the attempt to improve the free flow in the green line at points of entry. I happened to have come in through the airport about a week ago, and found myself in the green line with hand



luggage. I understand the example given by the Minister. I, along with about one hundred others, was required to stand up and wait until a customs officer came to us and gave us permission to proceed through the green line. In fact, I was in the green line for half an hour. I sincerely hope that with this change in the legislation which is required—

**Mr. Sudama:** Were you bringing in something illegal and they kept you back?

**Mr. C. Imbert:**—a change in approach also follows.

Old habits die hard, and even if this new legislation will now permit people to walk through the green line until they are stopped by a customs officer, I sincerely hope that, in their effort to raise revenue for the country, the customs officers do not stop everybody passing through the green line, because systems will only work if they are allowed to. I am certain that the system will work. It works in other countries. If one enters Miami Airport or Heathrow Airport, one sees a steady flow of passengers through the green line, random and deliberate checks by the customs, based on surveillance, based on prior information perhaps, based on police intelligence and, sometimes, even on the appearance of the person. The customs may pull someone aside out of the green line and conduct a search. That is how it should be.

### **3.00 p.m.**

In other countries, the majority of persons who go through the green line are allowed to go through uncharged, and this is why the penalties must be severe. This is why there must be a fine of \$50,000 because, with the nature of Trinidadians, ‘they go try ah ting’, and somebody will walk through the green line with goods they should have declared and will be stopped. But the first few occasions where someone is stopped in the green line and is subjected to a severe fine, should allow the line to operate in the manner in which it is intended. I welcome this initiative. As I said, it is ten months late, but it is necessary to bring Trinidad and Tobago up to the standards of entry of other countries. It will facilitate tourism as well because one of the problems a tourist has, on entry into Trinidad and Tobago, is the amount of time spent, not just in customs, but also in immigration. We need to upgrade our systems to facilitate the free flow of persons.

In many other countries, nationals are not required to have their passports stamped, even on entry. In the United Kingdom, when a British subject is entering, not always is there a requirement to have the passport stamped. There is a free flow of nationals and residents through the designated line, so that the arrival hall is not cluttered up.

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On this particular occasion a week ago, when I was in the airport, three planes landed at the same time—a number of nationals and a number of foreigners—and the average time spent in the line for nationals was longer than that for foreigners, which points to anomalies in the system. Why should a national of Trinidad and Tobago spend one hour waiting in the line? He is entering his own country; he has a Trinidad and Tobago passport. These are other things that I ask the Member for St. Joseph and the Minister of Finance who has responsibility for tourism to look at. The effect of all these Trinidad and Tobago nationals in the line, hundreds of them, was to crowd the arrival hall and inhibit the tourists who were coming in. It did not create a good impression of Trinidad and Tobago. After that experience, to go into the customs hall and stand for an hour or two, certainly does not present a good picture of Trinidad and Tobago to the visitor.

So that while on the one hand, I accept and agree that there must be intervention and there must be penalties, there will always be people who try to evade the law, who try to commit fraud, in bringing in goods which must be declared. We must come up with systems to improve entry into our country, in the same way that the last PNM administration changed the system on exit, where no longer one had to present the immigration card and passport to the immigration on exit. This has speeded up a lot of movement through the airport for persons leaving the country. We did away with the tax exit certificate requirement and created new methods of dealing with tax evasion, new methods of compliance, higher penalties and so forth.

I ask the Minister, having brought this legislation to the House, to not just leave the legislation on the books. There are systems that must be put in place to allow the legislation to function properly, to allow the legislation to function in the manner in which it is intended.

If one looks through the legislation, one sees that an attempt is being made to allow importers to bring in their goods without unnecessary hindrance to reduce the delays in goods being cleared from the port. At the present time, the procedures are very cumbersome. Persons bring in goods because of discrepancies in documentation, because of arguments over the value of the goods and so forth. Quite often, the goods remain on the port for long periods of time, for a year in some cases, and this new legislation will allow the customs to track the goods, take an inventory, have a provisional duty paid on the goods, then allow the goods to be removed from the port and allow the customs to follow up and perhaps adjust the value at a later date, facilitating trade, facilitating business. That is the

whole point behind this legislation, which, as I said, was all started by the former Minister of Finance, Wendell Mottley, and now being implemented by the present Minister of Finance.

Mr. Speaker, I hope that the performance demonstrated here today by the Government in bringing this legislation to Parliament almost a year late, in not telling us what will be done to facilitate the legislation, in not telling us what systems are going to be put in place to make this legislation work—quite often we come into this Parliament and enact laws and nothing happens. The legislation is impractical; it creates problems because the bureaucracy is not in place. I would have expected the Minister, in his introduction, not to just deal with the bare legal language in the Bill—that is something for the Attorney General. The Minister has to implement the policy in the Bill. The Minister has to put in place the administrative systems to make the legislation work.

**Mr. Narine:** The building.

**Mr. C. Imbert:** No, the acquisition of the building is not one of the systems I am talking about.

The Minister has to tell the House—and I hope he will do so in his winding up—exactly how this green line is going to operate. What procedures are the customs going to implement to ensure that the green line operates in the manner intended, to allow free flow of persons through the line, but to also give the customs the opportunity to apprehend persons who may be committing a crime? He has to tell us what he intends to do about that. He must also tell us how the customs is going to be strengthened to deal with all of the new systems being introduced with this legislation. How is the customs going to deal with them? He must tell us. Do not just come into this Parliament and drop a piece of legislation, go through it clause by clause and leave. That is not what ministerial responsibility is all about.

Before I close, Mr. Speaker, permit me a brief diversion. I noticed that the Minister, having purchased the Government, now intends to purchase a constituency. I wish him well. He will have to spend far more than \$3 million and I welcome the capital injection into my constituency. My constituents need the money. Please, come soon.

I thank you, Mr. Speaker.

**3.10 p.m.**

**The Minister of Social Development (Hon. Manohar Ramsaran):** Mr. Speaker, I am very pleased to join this debate to support the Minister of Finance and Minister of Tourism in his excellent presentation of this Bill. The matter we are considering in this honourable House is a Bill to amend the Customs Act, Chap. 78:01.

Before I get into the nitty-gritty of this Bill, I would like to reply to the Members for La Brea and Diego Martin East. I want to inform the Member for La Brea—we know what he tried, but still, for his information and maybe people who are listening to us—that we have ways in the customs of dealing with communicable diseases as they affect Trinidad and Tobago. Whenever a ship arrives into Trinidad and Tobago's waters, the master of this ship makes a declaration by flying a flag indicating that the ship is free from communicable diseases. A port health officer then boards the vessel and verifies this. The officer then grants pratique indicating that the ship can then communicate with the shore, or the people of Trinidad and Tobago.

If a member of this ship has any communicable disease on board, then quarantine regulations are put into effect. *[Interruption]* If the Member for La Brea would listen, he would learn something. I would also let him know that the provisions are amply covered under the laws of Trinidad and Tobago—the Quarantine Act, Chap. 28:05—which deal with all aspects of communicable diseases that affect us in Trinidad and Tobago. We know that his intention was not to find out about this but to try something.

Whenever the Member for Diego Martin East speaks he laments that they did everything and we are only implementing. Just to give a background, all these laws which are coming to this House today were requested by the customs over years. When I was in the customs we kept asking for changes to the laws, to correct what was going on in this country, but it fell on deaf ears. What they did after 30-odd years was come forward with something in 1995. When we thought that they were serious for the first time, our dreams were shattered by the calling of that election and the Bill lapsed in October of 1995.

That was your chance, Member for Diego Martin East. He accused my Minister and said he now knew him. I hope that after October 14 he is also known. What happens in this country is when people leave that side and do what is right, then they are seen as what they really are and we must try to let him know that. He will be exposed on October 14.

He spoke about the stripping station at Pt. Lisas. We welcome that move. What they did, in effect, was establish one stripping station. We have two major ports in this country. What has happened is that all the importers returned to the other port and that port suffered. In my opinion, there should have been two stripping stations at one time, or none at all. What they introduced was something that everyone in this country is unhappy about, but this Government will straighten that out.

He spoke about boats. In the Customs and Excise Division, the duty of the customs officer is to board boats when they come to this country. Do you know what happened during their administration? There were no boats which customs officers could use to board. The Customs and Excise Division had to use boats from the agents. Imagine an agent would have to say when to board that boat and they had to wait on the whims and fancies of that agent to board boats. This is what happened. How could we have had confidence in that Government? It is for that reason that we got ourselves together and ensured that they are now sitting there.

**Mr. K. Valley:** Mr. Speaker, if the Minister would give way, I have one question. Is he speaking on behalf of all customs personnel when he is making the point, "how could we have confidence in that government"?

**Mr. Panday:** Yes, he is.

**Hon. M. Ramsaran:** Mr. Speaker, I am speaking on behalf of the Government and the customs is part of the Government of Trinidad and Tobago and they are also citizens of Trinidad and Tobago.

He spoke about new boats. At present in this country we are getting new boats and it is because of the work done by the Prime Minister and the Attorney General. The Americans have confidence that we are a responsible Government that would deal with the drug trade and this would affect my ministry. I am now looking at the preventative aspect in my ministry, how we could curb the incidence of street children, vagrancy, and so forth. If these operations had been put in place, the incidence of drugs in this country would have been less by far. The Customs and Excise Division is now moving, not only as a revenue-collecting agency, but would be dealing with preventative measures. It would be playing a dual role where the preventative aspect would be given more teeth, so to speak.

The American customs has asked all customs officers to look at that aspect. We know they spoke in the past about introducing the preventative aspect, but there were no tools. We now have the tools in place to ensure that we, in Trinidad

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and Tobago, are protected so that the drugs would not be easily available in Trinidad and Tobago, and this would positively affect the Ministry of Social Development.

He spoke about the green line. But in the past the green line was just a line in name only, in that when one came through the green line one had to be interviewed by a customs officer and this is what caused the line-up. What we are proposing here is that a passenger could pass through the green line without having to answer questions individually. What we have in place now, when going through the green line, the customs officer could ask someone to step aside and have an interview, and if one is contravening the law; if one has any uncustomed goods, then one would be fined. This would facilitate the speed through the green line and show the difference between what has happened in the past and what would happen in the future.

The Member spoke about passing through the green line a couple days ago, but what happened in the past? He never travelled to see the suffering of passengers? This has been going on for years. It did not happen three weeks ago when he first travelled. Maybe this is the first time he had the unfortunate privilege of using the other side, but passengers have been suffering for years and the Customs and Excise Division has been making approaches to the Government to change these laws but they were not. I have a note here which states that over the last four years we had one operational launch in Trinidad and Tobago for the customs to use. Again, thanks to good leadership, and a good Prime Minister, we now have six boats and these will ensure that we are protected in this country.

The introduction of this amendment Bill to this honourable House signifies my Government's intention of addressing, in a very tangible way, the escalating problem that exists and has existed for some time at the Customs and Excise Division. This Bill would also facilitate trade. When there is doubt with valuation of goods at the customs, it takes a long time to get this cleared up and this results in the payment of rents at the ports, which increases the cost of living. But with the introduction of this Bill all this red tape would be addressed and the time for getting an entry passed in the customs would be cut by half or even less and the rent that we now pay would be no more.

I would not elaborate on what the Bill is going to do; the hon. Minister of Finance and Minister of Tourism would do that, but what this will do is to decrease the cost of clearing a container; so my government must be given credit

where credit is due. We are ten months now in office and I think the Member for Diego Martin East must now change his tune. Anytime he gets up he says, "we did this; we could have done that and we should have done that". When he speaks we could hear regret in his voice. But come October 14, he might have more regrets.

**3.20 p.m.**

Mr. Speaker, this Bill addresses section 37 of the Customs Act which provides for goods that come into the country under special regulations. This section provides that whatever goods are imported for a particular industry or use, remain in this country and after a while they are sold or exchanged. This has created quite a problem for the customs over the years. This Bill now ensures that if we have to change ownership, there are two years in which to do that and then the Minister of Finance will be responsible for ensuring that duty on these goods is paid.

This has been a bone of contention for years in the customs department and I am very pleased to see that the Minister of Finance, in his wisdom—contrary to what is said by the Opposition—has included this provision in this Bill which will also impact on the importation of motor cars by returning residents. If they want to sell they have two years.

This is a very important part of the legislation and I commend the Minister for bringing it and I want to let him know that as a former employee of the Customs and Excise Division, I have spoken to my former colleagues and they see this Bill as giving the Customs and Excise Division teeth and strength; they now feel that their morale could be given a boost. Also, the importers in this country see this as a fair piece of legislation that could assist them from time to time.

The Member spoke about reducing taxes, but when we enter this country it is a different story. Duties could be reduced but when goods come into this country there are other delays on the ports and elsewhere that inflate the prices of goods, and the c.i.f. price would not normally be reflected at the end of the day because of the lackadaisical approach by the last government over the last three to four years when the world was changing its customs laws.

Mr. Speaker, we said that it is going to impact on three important areas; tourism—it is facilitating trade and it simplifies the language. Simplifying the language in customs means that one comes in and does some customs transaction and because of the fancy words, many of the ordinary persons who use customs and excise are misled, for example, a passenger, a small importer or exporter. We

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introduce this Bill so they would have no problems with the customs and excise language.

We support the Minister of Finance and assure him that the Customs and Excise Division feels that it has been given a new lease on life with this measure and the encouragement it has received from the Government. We have had discussions with the officers and they have promised to work harder than ever to avoid what has happened in the past, of goods being undervalued and what not. Once they feel that Government is serious about ensuring that the Customs and Excise Division gets a fair deal, this will help lift their morale. They have given me this commitment.

Mr. Speaker, I commend the Minister of Finance and I ask him to continue in this thrust to ensure that the services of this country are improved and the Customs and Excise, being a very important division in the Ministry of Finance and given all the changes in the law, would continue to serve the people of Trinidad and Tobago. This could go a long way in reducing the cost of living in this country. The Minister of Trade would be happy to know that once trade is handled properly and given the importance and facilitation it deserves, we would have less rent and overhead expenses. When we do this with the cost of living, the Minister of Social Development would be happy to know that the entire country would be given something cheaper to eat and so sustain life.

Mr. Speaker, I take great pride in supporting this Bill.

Thank you.

**Mr. Speaker:** Hon. Members, by agreement of both sides, we would now return to "Statement By Ministers".

**RACIAL DISCRIMINATION  
(ENTERTAINMENT CENTRES)**

**The Prime Minister (Hon. Basdeo Panday):** Mr. Speaker, I am grateful to you for granting me this indulgence and, also, I thank all Members of this House for permitting me to make this statement at this time.

It has been brought to the attention of Cabinet that there exists in this country a system of discrimination based on racial differences taking place at certain centres of entertainment run by people in the private sector.



The Government has made it clear from its inception that our human resource is our greatest asset; that our failure to advance as a nation economically, politically and socially has been due largely to our failure to mobilize that human resource; and that our failure to mobilize our people as one nation with one purpose and one direction has been due to the obnoxious practice of discrimination and consequently, alienation, on the basis of racial and other differences.

This Government makes it absolutely clear that it will not sit idly by and allow this society to disintegrate on the basis of racial and other forms of discrimination. In the circumstance, the Government intends to have these allegations investigated and appropriate action taken to nip in the bud this obnoxious and dehumanising practice.

Thank you kindly, Mr. Speaker. [*Desk thumping*] [*Interruption*]

**Mr. Speaker:** Hon. Members, I would simply remind Members that there is a limit to the obnoxious behaviour by any Member.

Hon. Members, we would now return to the debate on the Customs (Amdt.) Bill.

#### **CUSTOMS (AMDT.) BILL**

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, I rise to make a small contribution on the Bill before us to amend the Customs Act, Chap. 78:01.

I must state from the beginning that this is good legislation. This is legislation in the right direction, and as my colleague mentioned, this is legislation which was brought by the last administration and I am pleased to see that through the new Finance Minister—even though it is 10 months late—it is seeing the light of day.

I am aware that comments on this legislation were received from the Trinidad and Tobago Manufacturers' Association as well as the Trinidad and Tobago Chamber of Commerce. In viewing those comments one sees that in the main there is general agreement with the trend and tone of the legislation. I think there were just about two significant points made. In one case there was an adjustment with respect to section 22 of the Act where the time limit was extended to six months from three months—a recommendation of the manufacturers' association. However, it is my view that with respect to that matter one should have noted the point made by the chamber of commerce. Section 22 deals with the ability to appeal to the tax appeal authority. It also provides that within the three months, if the amendment circulated is taken, that time period would be extended to six

months. The chamber, however, has argued that under the Tax Appeal Board Regulations, there are provisions for discretion allowing for an appeal outside of the period and the effect of the limitation in section 22 is to avoid that discretion under the Tax Appeal Board.

**3.30 p.m.**

When one takes that against the right the Comptroller should have to revalue after a period of one year once he is in obvious difficulty—because if on a revaluation there is a change in the duties payable, the importer cannot then go to the Tax Appeal Board. By that time he is estoppel, as it were.

The Chamber has made the case with which I agree, in fact, we ought to carve out as it were, an appeal or a discretion should the Comptroller revalue and change the duty assessment after that 12 month period. I simply note that.

The other point relates to the amendment in section 90 of the Act which states at clause 13:

- “90(1) The Comptroller may retain samples of goods entered provisionally under sections 87, 87A and 87B for such period of time up to the final entry of the goods as he may require.
- (2) The Comptroller shall—
  - (a) cause an inventory of those samples to be made; and
  - (b) cause a certified copy of the inventory made under this section to be forwarded to the importer.”

The obvious question is: What happens if the goods are lost or stolen while in the custody of the Comptroller? If we want to facilitate trade, and if we take the point that there are now small exporters and importers who can ill-afford the loss of samples then, obviously, we would say that not only must that certified copy be given but that the Comptroller must be held accountable for samples lost or destroyed while in his custody. In a Bill of some 20 clauses those are the only two points that I want to make with respect to the Bill and I ask the Minister to take them into consideration.

I want, however, to deal with this question of efficiency. The Minister claimed in his presentation—of course, we do all of these things; we are putting the infrastructure in place so that we can improve the efficiency of the Customs Department, and I agree with that concept. However, we will not maximize

efficiency simply by putting that structure in place. There is another structure that we need to implement. We have to remember that we are now living in a changed paradigm; we are moving from this negative list where the Customs and Excise Division for a number of years, not only through its fault, has grown up to say “no”, as it were. There is, one feels, the concept that the importer/exporter is guilty until proven innocent. If we are putting this infrastructure in place to obtain more efficiency there is need for training to accompany this list and to sensitize our customs officers to the new realities.

I give a case in point. We introduced the stripping station—one is at Point Lisas and one at Port of Spain. The concept was that one would do some sampling. Of course, when one listens to importers, one gets the complaint that the level of examination is still too high. Perhaps we can learn from what other countries are doing. For example, I think in Trinidad and Tobago between 10 to 20 per cent of importers account for no more than 80 per cent of goods imported into the country.

The Dutch starts with a 50 per cent sampling and if nothing is found for that importer the sampling level goes down to 25 per cent in year two, or 15 per cent in year three, as I understand it, and then to about five per cent. The concept there is one of exception and, of course, if one is found guilty of an offence at any time, then the sampling level goes back to 50 or even a higher level.

If the Government is moving in this direction—and I agree with the Minister of Finance and the Minister of Trade and Industry; they are following the initiatives of the last government and that is known—I think it is the correct initiative and yes, as a country, we have to be together on this, that in fact we have to position Trinidad and Tobago in a particular way. If we are doing that then all systems must be “go”.

For example, the manufacturers’ association is still complaining about the fact that only 10 per cent of importers paid that five per cent tax which was removed last August, but because of technicality it continued to be paid until September or October. Only 10 per cent of persons entitled to refund have so far received their refunds. I think we need to act on that.

They complained also about the processing time of duty entries. They say at present it takes up to seven days. I know as a fact one cannot compare our economy at this time with Singapore, but I think we can look at Singapore as an ideal to which we can aspire. They tell me that in Singapore it takes 10 minutes

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and I am saying that if, at present, it takes up to seven days—I do not know the average, it might be four days—whatever the average, we need to strive gradually to become a Singapore.

**Mr. Panday:** I do not have a Hong Kong.

**Mr. K. Valley:** I am always pleased—Singapore, Hong Kong, the concept is the same. Even a United Kingdom, sitting at the doorstep of Europe—as we sit at the doorstep of South America—the hon. Prime Minister was even going further than I went. I thought about positioning Trinidad and Tobago as the business and financial centre of this part of the Caribbean. He said, of the world, a much higher ideal. Of course, I would be extremely pleased if he can achieve that.

**Mr. Panday:** You must not believe everything you read.

**Mr. K. Valley:** Mr. Speaker, for my own information, through you, may I then ask the hon. Prime Minister whether I can believe that he, in fact, called teachers criminals?

**Mr. Panday:** Yes, those who abandoned their children. Parents who abandon their children are criminals.

**Mr. K. Valley:** So that we now know as a fact.

**3.40 p.m.**

We must have a debate on that at some other time. I was making the point that I am always pleased when I see legislation coming to the House that is geared to support our efforts to improve the standard of living in our country. As I said, this legislation is in the right direction. There are some areas which we need to look at. I counsel the Government that we need to do some training with our customs officers to sensitize them to the realities of the day. All businessmen are not crooks, but there are some.

Thank you.

**The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung):** Mr. Speaker, the Bill before us seems to have gathered the support of Members on the opposite side. As a matter of fact, they seem very anxious to want to claim credit. It is a pity that I have to be subjected to come to this House to face the Member for Diego Martin East.

**Mr. Imbert:** You will face me for elections too.

**Hon. B. Kuei Tung:** I am not sure if the PNM would send you back.  
[*Laughter*]

**Mr. Panday:** Manning would disown you.

**Hon. B. Kuei Tung:** When I hear the Member for Diego Martin East talk about there being no change, not a comma or full stop, I can understand his preoccupation with commas and full stops. He has subjected this House to the same words, comments and speech and he would not even change a comma or full stop in his contribution to this House. Obviously, he understands what it is, for repetition.

There is very little I can add to the words of my contribution. I am not sure if I am being called upon to speak about the health of the nation, as the Member for La Brea did in his contribution, or whether I should talk about some of the allegations which are being spouted by Members on the other side. I have evidence—because I used to be there—that they governed by rumours and gossip. They continue to think that this country would be dictated by rumours and gossip. If they have evidence, I feel that it should be produced, instead of using and destroying people's name. I have been here for two consecutive days in this Chamber; one day we had one Leader of the Opposition, and today we have another. Why can the two not sit together? Obviously, they are listening to rumours and gossip about each other. That is the way they continue to run their affairs and why unfortunately they have left me with very little to which to respond.

A great deal has been said about the amendments which are being made this afternoon. I know for a fact that they have been and would be welcomed by the Customs and Excise Division which has been undergoing a number of changes. A number of reforms have been brought about, partly because of an initiative of the local Customs and Excise Division, and jointly, because of the discussions which have been taking place between the United States customs and the Trinidad and Tobago Customs and Excise Division.

I support the words of the Member for Diego Martin Central. He said that all these amendments must be buttressed by training and systems which are critical for the customs to come of age. We recognize that there has been a different policy position in the country. In a sense, we are now in a position where we have become more in tune with the global economy because of some of the major economic changes which have taken place.

I have very close friends who are officers of the Customs and Excise Division. From my discussions with them I am convinced that there is a general appreciation of the efforts which the new administration is making with respect to bringing change in the Customs and Excise Division. More than that, I am convinced that they have taken on board the need to have more training and systems which would allow them to perform more effectively on their job. They have expressed a desire that they recognize the need to find greater balance between maximizing government and offering good, courteous and efficient service using a more professional approach. On their own they are recognizing some problems within the service and are bringing about a change.

It is very encouraging to note that customs officers are now being given the right tools, as it were, to ensure that they can produce the kind of service of which they are capable. They are recognizing the Government's commitment. Recently, one customs officer mentioned to me that he had been subjected to some poor service at the Licensing Department. It was only because of that experience he began to look at his department and recognized that they, too, need to bring about the same kind of changes which the new administration would like to see in terms of the delivery of service to members of the public.

These amendments in themselves would not bring about an efficient customs service. They would improve the administrative duties and powers which they have, so that they would be able to carry out their function in a more responsible manner. From the comments given this afternoon, I am quite pleased that I have had the support of this entire House in having these amendments brought about.

On the question of the container examination system, I remember earlier this year, with that coming on board at Point Lisas, there was a rush by importers to have their goods transshipped for clearance from Point Lisas to the port in Port of Spain. That was intended because importers felt that they would be given an easier time at the port in Port of Spain instead of the container examination system. I am aware that the Customs and Excise Division is looking at approaches to ensure that importers are not subjected to a lot of harassment. There are a number of unscrupulous importers who are prepared to try to evade payment of duties and taxes and find ways and means of not subjecting themselves to proper searches.

Earlier this year, it was intended to force importers to take their goods overland down to Point Lisas to be searched. I have been able to get the officers at the port in Port of Spain to give some priority to the completion of the container examination system. Recently, I had an opportunity to visit them and I am

convinced that this container examination system at the port in Port of Spain would be operative in time for the Christmas trade.

These measures would not resolve all the problems with customs. I am aware that there is a school of thought that customs officers are subjected to some of the most strenuous duties which have been requested of anyone, and that the situation of burn-out with customs officers seems to be fairly high. We are seeking to ensure that the Customs and Excise Division is adequately staffed; that there are sufficient opportunities for those officers to be given opportunities to proceed on vacation and to ensure that in carrying out these strenuous responsibilities, they would not be subjected to burn-out.

I beg to move.

**3.50 p.m.**

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

*Clauses 1 to 5 ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed, That clause 6 stand part of the Bill.*

**Mr. Valley:** Mr. Chairman, I move that an amendment be made to clause 6 to take into consideration the fact that the Comptroller, under section 23(2)(a), has up to one year to do an adjustment of the valuation. If that is so, I think we would need to allow some time, subsequent to that revaluation, for an importer, if he so desires, to go to tax appeal. Clause 6 states, "Notwithstanding any provision in the Tax Appeal Board Act", perhaps what we need to do is to delete that proviso and allow the importer the right to have the comfort of the current Tax Appeal Board Act. Under the Tax Appeal Board Act, section 7, there is provision for the institution of an appeal out of time where there is reasonable cause for not appealing within the time limit. If we delete that proviso, we will be all right.

**Sen. Kuei Tung:** Is that the same as the final assessment?

**Mr. Valley:** What does section 87 say? I do not have 87 here.

**Sen. Kuei Tung:** Well, I do not have it myself, but I was under the impression that (b) gave the three months from the date of final assessment. In other words, having made the final assessment, one now has the three months.

**Mr. Valley:** No. Look at clause 6.

**Sen. Kuei Tung:** It is either the expiry of three months from the date of deposit or after the Comptroller— So if the Comptroller took one year, a person will then have one year and three months. If he takes nine months, the person will then have one year. Does the Member understand what I am saying?

**Mr. Valley:** I understand the point the Minister is making but I wonder whether that is sufficiently clear or whether there is some vagueness in it.

**Sen. Kuei Tung:** The Comptroller has up to one year, whereas the importer has up to three months. Now I am also moving an amendment to change that from three to six in both cases, but I am still saying that if the Comptroller made an assessment, the clock does not stop until he does that under (b).

**Mr. Valley:** But what is “final assessment”? I think we need to look at the Act itself to see what 87A(5) says. Can we come back to that, Mr. Speaker?

**Mr. Chairman:** There is circulated an amendment to clause 6. Is it the wish of Members that we come back to this clause? *[No response]*

**Mr. Valley:** Given that, there is this amendment to section 23. It would not *[Inaudible]* even without looking at 87A(5), that 87A(5) would contemplate this one-year period we are now giving. This seems to be a new provision that we are giving the Comptroller.

**Mr. R. Maharaj:** What does 87A(5) say?

**Sen. Kuei Tung:** Remember this is with respect to a dispute for which the Comptroller would have already determined his assessment. What is normally required under the terms of a dispute is that one then makes a deposit, but one has three months in which to do so.

**Mr. Valley:** I am really trying to cover the situation under 7(2A) where the Comptroller comes 12 months after and says:

“... within one year from the date of entry of imported goods, adjust the value accepted by an Officer at the date of entry of such goods, where he discovers that the value accepted by the Officer was incorrect—

- (a) based on new information concerning the goods; or



(b) for any other reason.”

**4.00 p.m.**

Unless section 87A(5) takes into consideration, or is sufficiently broad to say: “a final assessment includes any further adjustment by the comptroller”.

**Mr. Maharaj:** Mr. Chairman, if I may. Section 22 deals with the question of when the dispute arises. However, clause 6 really deals with the appeal process—the time being extended. The proceedings would obviously be terminated with respect to the assessment at the end of the assessment made by the Comptroller, so the time would really run from that period.

Have you looked at section 22 which deals with the dispute?

**Mr. Valley:** All section 22 is saying is that if there is a dispute one should put a deposit and one now has six months to do so.

**Mr. Maharaj:** Section 22(3) refers to the proceedings before the Appeal Board.

**Mr. Valley:** Okay, but look at what happens. At that point it does not go to the Appeal Board or anything of the sort, there is a final assessment, for all practical purposes. But within a year—nine months later—the Comptroller says that “I now have new information and I want to reassess”. I am saying that it is unclear as it stands, given that the Comptroller now makes a new assessment, that the importer would have the right to appeal.

**Mr. Maharaj:** If that occurs then a dispute would arise under section 22?

**Sen. Kuei Tung:** But only after the year. The clock has not started as yet, it is when he reassesses that a dispute can arise.

**Mr. Maharaj:** In other words, assuming he reassesses and he has some more duties, and he makes a deposit for the additional duties, then he can appeal.

**Mr. Valley:** Okay, if that is the understanding—

**Sen. Kuei Tung:** That is my understanding.

**Mr. Valley:** For the avoidance of doubt, I would simply have deleted a proviso at the beginning, and I quote:

“Notwithstanding any provision in the Tax Appeal Board Act,…”

And one would then have to rely on the discretion in the Tax Appeal Board Act. There is another question: Why is it that we want to limit the operations of the Tax Appeal Board Act?

**Sen. Kuei Tung:** Only because we want to institute the proceedings within a specific time, otherwise this is what causes the backlog and the bottleneck.

**Mr. Valley:** You can do that but still allow the Tax Appeal Board to have a discretion. They must be able to say, that in this particular case we believe that there is sufficient evidence to allow it to come outside of the three-month to six-month period. *[Interruption]* All I am saying is that if we delete that, it will say:

“...no appeal may be instituted under subsection (1) after—”

All we will be taking out is “Notwithstanding...”, asking the importer then to rely on the discretion. He must then prove his case that there is sufficient reason for him to go outside.

**Mr. Maharaj:** Mr. Chairman, the whole purpose of the Customs Act in these provisions was really to let people know that there were time limits. If we amend the Bill in such a way that there will be an absolute discretion in the Tax Appeal Board Act to permit—

**Mr. Valley:** But it is not absolute discretion. Because we say in the legislation that we are not allowing appeals, obviously the Tax Appeal Board would take that as fact. But if, because one has a discretion, one can prove a case that there are, in fact, mitigating circumstances to allow for one to go outside a period, for example, that the court ruled that the guy, on the clear reading of this, cannot come after the Comptroller has done a reassessment—

**Mr. Maharaj:** If we do that then we will get many applications for exceptional circumstances. We would, in fact, increase the backlog of the courts and we would therefore be making an amendment which would be counter-productive to the Act. People who have their tax assessment must know that if they are dissatisfied they must file it within a certain time. Under section 22(3) there are time limits. If, for example, there is a reassessment when a dispute arises again—we have a period of time which is three months and we are extending it to six months and I think that is a reasonable time for people to file applications for appeal proceedings.

**Sen. Kuei Tung:** Mr. Chairman, I move to amend clause 6 by:

“deleting the word ‘three’ and substituting the word ‘six’ in subsection 4(a) and (b).

- (a) the expiry of six months from the date of the deposit made under this section; or

- (b) the expiry of six months or the date of the final assessment under section 87A(5).”

*Question put and agreed to.*

*Clause 6, as amended, ordered to stand part of the Bill.*

*Clause 7 ordered to stand part of the Bill.*

**4.10 p.m.**

*Clause 8.*

*Question proposed, that clause 8 stand part of the Bill.*

**Mr. Chairman:** I think we have an amendment here.

**Sen. Kuei Tung:** Yes. Mr. Chairman, I propose that after 37(2) instead of the end of this subsection that we add the following words: “unless the full duties payable on the goods are paid”. So it now reads:

“...those goods shall not, without the prior written permission of the Minister and within two years of the date of importation of the goods or within such other period as may be specified in any other law, be sold, transferred or used in any way contrary to the conditions or purposes for which they were allowed to be so entered, unless the full duties payable on the goods are paid.”

*Question put and agreed to.*

*Clause 8, as amended, ordered to stand part of the Bill.*

*Clauses 9 to 20 ordered to stand part of the Bill.*

*Clause 11 recommitted.*

**Mr. Valley:** Mr. Chairman, in clause 11(5)(b) I think we have to change the third to last line from the bottom on page 12 to read “six months” instead of “three months”.

Having said that Mr. Chairman, here we see the intent of section 87A and we see that it really deals with special circumstances and not with the 12-month right which we have given to the Comptroller. In fact, it does not appear that the importer would have the benefit of section 22(4) if the Comptroller were to make a readjustment. But we have already passed that, we may have to take it up in the other place.

**Mr. Chairman:** Hon. Members, could we revisit clause 11(5)(b) on page 12, three lines from the end of the page? It reads: "Within three months."

Is it conceded that the "three months" occurring on page 12—

**Mr. Maharaj:** Mr. Chairman, may I explain it? They are two different matters altogether. The other section deals with where there is a dispute and there are documents. Under section 87, we are dealing with a matter where there are no documents and no evidence.

**Mr. Valley:** Under section 22.

**Mr. Chairman:** To the same clause which you changed from three months to six months.

**Mr. Maharaj:** Yes. Mr. Valley was correct. I was misled.

**Mr. Chairman:** Could we agree that it is an amendment that is desirable in the circumstances?

**Mr. Maharaj:** Yes.

**Mr. Chairman:** I now put to hon. Members that clause 11(5)(b) be amended so that the "three" appearing before "months", three lines from the end of page 12 be changed to "six".

*Question put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill, as amended, be reported to the House.*

*House resumed.*

*Bill reported, with amendment; read the third time and passed.*

**4.20 p.m.**

**MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) (AMDT.) BILL**

*Order for second reading read.*

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move,

That a Bill to amend the Motor Vehicles Insurance (Third Party Risks) Act, Chap. 48:51, be now read a second time.

Mr. Speaker, the purpose of this Bill is to seek to redress the difficulties and injustices which are suffered by persons who are injured, or suffered damage, as a result of motor vehicular accidents. Under the present law, when someone is injured or suffers damage as a result of a motor vehicular accident, that person can make a claim against the wrongdoer, that is, the driver or owner of the motor vehicle, and the person can also make a claim against the insurance company of the vehicle which did wrong.

In theory, the position is that the victim has a claim against the insurance company and also against the owner and/or driver of the motor vehicle. What has happened in practice, however, is that when insurance companies refuse to honour claims as a result of a motor vehicular accident, the victim has to file an action against the owner and/or driver of the wrongdoing vehicle, and he has to get a judgment, after which he can then file an action against the insurance company, and the insurance company can file a defence. So there are, in effect, two sets of proceedings that the victim would have to file, in order to recover damages or compensation for injuries where the insurance company is saying, in effect, that it is not liable.

One of the reforms which this Bill seeks to achieve is to give a discretion to the court to permit the victim in one action to file and carry on an action both against the wrongdoer, the tortfeasor, and the insurance company. Mr. Speaker, this is a matter which has caused a lot of hardship to persons who have been victims of motor vehicular accidents, and in practice what occurs, really, is that people who suffer these injuries and damage have to wait for several years. As a matter of fact, the court records would show that the period of time victims have to sustain these hardships spans between seven to ten years, and in some cases 15 years.

That injustice was recognized in 1992 by the Law Commission which drafted a Bill and sent it to the then administration, but for some reason or other, like so many other matters, it did not see the light of day. In the meantime, since 1992, although the injustice was recognized and something had to be done about it, the matter was not dealt with. Mr. Speaker, as you know, the Law Commission is the statutory body entrusted with the power and duty to look at laws which have become outdated and do not deliver justice, and to recommend the reformation of those laws. It is then the duty of the Government, when it gets these recommendations, to consider them and have the necessary reforms done.

This is yet another example in which the last administration allowed some insurance companies to take advantage of poor people who were injured as a

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result of motor vehicular accidents, since it affected their family and home life, and the education of their children. But the Government neglected to take any steps to correct the situation.

This Bill is going to make it very difficult for insurance companies to avoid liability for accidents for which they are responsible, but which they have, in the past, used construction of principles to say that the insurance policies do not cover the particular accident. Quite apart from the provision that the court would have a discretion to hear matters in which there is an action filed both against the tortfeasors and against the insurance company, the Bill attempts to redress other injustices which some insurance companies have caused to victims of motor vehicular accidents.

Some of the clauses, in effect, would place statutory restrictions on insurance companies being able to avoid insurance liability. As a matter of fact, one of the reforms is that in cases where the vehicle is being driven by a person whom the owner knows as the driver of that vehicle, the driver would be deemed to be the agent of the owner. Under the present law, many owners and insurance companies avoid liability for accidents, although the owners know who was driving the vehicle and, in effect, consented to the person driving the vehicle. However, because of the principles of common law, the fact that a person knows that someone is driving his vehicle does not necessarily mean that at the time of the accident, the person was acting as a servant and/or agent of the owner. Some insurance companies have used that loophole to avoid claims in favour of victims.

Mr. Speaker, this is another area of the law which this administration intends to reform in such a way that it will not only speak justice, but deliver justice. [*Desk thumping*]

**4.30 p.m.**

#### ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I notice that it is tea time and I do not want to transgress upon the rules of the House. May I announce that I have had discussions with the main Opposition Chief Whip, if I may say that, and I did not get a chance to inform you, but we have decided that we would adjourn the House today, not to next Friday, but to the following Friday which is October 4. I am mentioning this in advance before I move the particular motion.

*Adjournment*

*Friday, September 20, 1996*

Next Friday would have been Private Members' Day and we have agreed that October 4 would be Private Members' Day. I mentioned to the Opposition Chief Whip that thereafter, from the 4th, the Parliament may sit regularly on a daily basis—

**Mr. Valley:** You did not say on a daily basis, you said regularly.

**Hon. R. L. Maharaj:** Regularly, but I am saying that I give notice that possibly on a daily basis, we would sit in order to complete important legislative matters. I undertook to provide the Opposition Chief Whip with a list of these matters, but Mr. Speaker, there is already some on the Order Paper and from what has occurred today in the House, one would know that there are other matters to complete. We will want to be completed the Tobago bill. I merely indicate that. May I also indicate that I will ask leave of this House to continue my contribution on this matter when it is not Private Members' Day.

I move the adjournment of the House to Friday, October 4, at 1.30 p.m.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.33 p.m.*